

In the Matter of:

MCDOUGLE

vs.

NESHOBA COUNTY, MS, et. al.

DAVID SPIVEY

August 22, 2016



Court Reporting Solutions

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1 A You know, when they pulled right there,
2 but they were out of view. See, you can't see --
3 you can't see from that generator back on the
4 camera. Because the camera on the sally port is
5 just like that when the officer pulled in so you
6 could see him when they take him out of the car and
7 bring him up to the door of the jailhouse.

8 Q Okay.

9 A But from that point right here back, the
10 camera can't see nothing.

11 Q All right. And how did the officers get
12 Mr. McDougle out of the car?

13 A Drug him.

14 Q And how did they do that?

15 A Opened the door and drug him out by his
16 head. One had him on one side, and one had him by
17 his head. And when they drug him out, I guess he
18 was incoherent or whatever. He just went down like
19 that.

20 Q Now, wait a minute. You said that they
21 drugged him out by his head -- one on this side and
22 one on that side. What do you mean by that? Did
23 they have his hand on his head, or did they have his
24 hand under his arm?

25 A No. When they, when they drug him out,

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1 they drug him out like this right here. And that's
2 when his head went down and hit the ground, and then
3 that's when, I don't know, I can't remember who it
4 was or how it was, and that's when they grabbed him
5 and picked him up by his head. And you had one that
6 had him by his head, and you had one by -- had each
7 by the arm. And I said, "Damn, that's Low-Low.
8 What's done happened to him?"

9 And then they drug him on in, and I shot, I
10 shot on in there, in the camp. And I got -- and
11 Chief, because when you go in to the door, Chief and
12 Chris's room was the first one that you go in the
13 door. And I was on the end down there, so I ran in
14 there to Chief, and so that's when Chief jumped up,
15 because he was, he was the head, you know, thing
16 that night.

17 So he put his stuff on and he go in. The Chief
18 could go in any time he get ready, you know, because
19 he kept down there.

20 Q And who is Chief, again?

21 A Scott Cunningham. They called him
22 "Chief," but he's the one that's the head of the
23 Royals, so that's why they call him Chief. He was
24 the head of the Royals.

25 Q So when you say they pulled him out of the

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1 patrol car, he was face-down on the back seat?

2 A I don't know how he was on the back seat.
3 I didn't tell you that he was face-down on no back
4 seat. I said they opened the door up and pulled him
5 out of there. Now, I couldn't see him. If he was
6 face-down in the back seat, I couldn't see that, but
7 I seen them open the door. I didn't tell you that.

8 Q Okay.

9 A That he was face-down on the back seat of
10 that car when they pulled him out. I didn't tell
11 you that.

12 Q No, no, no, I'm not trying to put words in
13 your mouth.

14 A But you see I didn't tell you.

15 Q You were making gestures, and because of
16 the transcript --

17 A Yeah, I said --

18 Q -- I just wanted to make sure we were
19 clear.

20 A I said that they opened, I seen them open
21 the door, and I didn't know who it was. And that's
22 before I got ready to run it. I wanted to see what
23 was going on. So they grabbed him and drug him out,
24 out of the car.

25 Q Let me interrupt real quick, because I

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1 want to make sure we're absolutely clear. And if
2 you don't know, you can tell me you don't know.

3 A Yeah, go ahead.

4 Q But when they got him out of the car, can
5 you say, one way or the other, how they pulled him
6 out of the car? Like where they put hands on him to
7 get him out?

8 A No.

9 Q You don't know?

10 A No.

11 Q Okay.

12 A I don't know if he was laying down or he
13 was setting up, I don't know. All I seen is when he
14 come out of the car.

15 Q You just saw him come out of the car?

16 A Yeah.

17 Q Did you see Mr. McDougle fall to the
18 ground at any point?

19 A He couldn't fall. He didn't fall. When
20 they drugged him out, he just lift over like that.

21 Q Okay.

22 A That's when they pulled, caught his hand
23 and picked his head up because his head had hit
24 the -- and like, you know, like you see on the
25 cartoons, automatically you get a -- uh -- a knot.

12 (Pages 42 to 45)

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<p style="text-align: right;">Page 46</p> <p>1 I said, "Damn!" Because his head had hit that --</p> <p>2 now, I don't know if he hit the ground at the</p> <p>3 jailhouse or that knot got on his head before he got</p> <p>4 to the jailhouse, but --</p> <p>5 Q You saw a knot on his forehead when he got</p> <p>6 to the jail?</p> <p>7 A Well, when I seen them pull his head up.</p> <p>8 Q Okay. Now, did you see him hit his head</p> <p>9 on the ground after he got out of the patrol car, or</p> <p>10 did you just see them pull his head back after they</p> <p>11 got him out?</p> <p>12 A Well, I seen -- when they pulled him out</p> <p>13 of the car. I seen him when they pulled him out,</p> <p>14 his head slumped down like that.</p> <p>15 Q All right. But you didn't see his head</p> <p>16 actually hit the ground?</p> <p>17 A No, I didn't.</p> <p>18 Q Okay. And when they got him out of the</p> <p>19 car, did they escort him from that point inside the</p> <p>20 booking area of the jail?</p> <p>21 A They drug him in. He couldn't walk.</p> <p>22 Q Okay. And when they drug him in, do you</p> <p>23 know how they carried him in there or drug him in?</p> <p>24 What you mean by that?</p> <p>25 A They drug him in on each side. Somebody</p>	<p style="text-align: right;">Page 48</p> <p>1 door by his arms is I shot in the canopy. I don't</p> <p>2 what from that, from the point from the door where</p> <p>3 you go into the jailhouse, I can't tell you a hill</p> <p>4 of beans.</p> <p>5 Q Okay. All right.</p> <p>6 A So after that, now, when they got him</p> <p>7 inside now, then everything else I know would come</p> <p>8 from Chief. Because Chief shoots in there to go do</p> <p>9 everything and take care all of the business that I</p> <p>10 know, he tells me everything what happened, because</p> <p>11 they wouldn't let us in there.</p> <p>12 Q And that was my next question for you.</p> <p>13 You couldn't see inside the booking of the jail from</p> <p>14 where you were in the trusty yard, could you?</p> <p>15 A You can't see nowhere from the trusty yard</p> <p>16 to but on the sally port and down on Lewis Street.</p> <p>17 Q Okay. All right. So you couldn't -- you</p> <p>18 don't know personally what happened with</p> <p>19 Mr. McDougle once they got him inside the jail?</p> <p>20 A Nope.</p> <p>21 Q Do you remember which officers was it that</p> <p>22 helped Mr. McDougle out of the patrol car?</p> <p>23 A No, you know, it was -- uh -- it was</p> <p>24 Eric Lowndes, Brad Pope. The Choctaw. I can't</p> <p>25 remember what. Now, it's been back in the day. I</p>
<p style="text-align: right;">Page 47</p> <p>1 took -- two of them drug him in. One had him on</p> <p>2 this side, and one had him on that side, and they</p> <p>3 drug him in.</p> <p>4 After that, when they drug him to the door, I</p> <p>5 shot in there.</p> <p>6 Q Okay.</p> <p>7 A I shot in to get one of my buddies, and</p> <p>8 that's when Scott jumped up and put his shoes and</p> <p>9 stuff on so he could go run in there to see, because</p> <p>10 he was running booking.</p> <p>11 So Scott -- and Scott goes in there to see</p> <p>12 what's going on and how everything went.</p> <p>13 Q When they carried him into the jail or</p> <p>14 helped him inside the jail, did they carry him in</p> <p>15 the same the whole way? You said one under each</p> <p>16 arm. Was it the same all of the way from the car to</p> <p>17 the --</p> <p>18 A I couldn't tell you. I wasn't inside</p> <p>19 there.</p> <p>20 Q Well, from the time they took him out of</p> <p>21 the car and until they got him inside the jail, were</p> <p>22 they carrying him the same under each arm the whole</p> <p>23 way?</p> <p>24 A Only what I'm saying is when I seen them</p> <p>25 drug him, drag him to the sally port through the</p>	<p style="text-align: right;">Page 49</p> <p>1 can't tell -- I can't remember who was dragging him.</p> <p>2 If I tell you which person it was dragging him, I</p> <p>3 would be lying to you, because I don't know which</p> <p>4 one was dragging him. But like I said, when I seen</p> <p>5 him, you know, I get, you know what I'm saying? Do</p> <p>6 you know what I'm saying? Well, that's Michael, but</p> <p>7 all we know is Low-Low. All I call him is Low-Low,</p> <p>8 but, you know, it was a different scenario after I</p> <p>9 seen it was him.</p> <p>10 And then the first thing I'm thinking about, I</p> <p>11 want to let his mama and daddy know so they could</p> <p>12 come and see what was going on with him.</p> <p>13 Q All right. After they got Mr. McDougle</p> <p>14 out of the patrol car, did you hear any</p> <p>15 conversations between him and any of the officers?</p> <p>16 A No.</p> <p>17 Q You said earlier that he appeared to be</p> <p>18 incoherent or something like that.</p> <p>19 A Yeah, I mean he couldn't even walk. So I</p> <p>20 know he couldn't -- I mean he didn't talk. I didn't</p> <p>21 hear no talking. I heard they was doing talking,</p> <p>22 but I don't know what they was saying. I wasn't</p> <p>23 paying no attention what they were saying.</p> <p>24 Q Okay.</p> <p>25 A I can't tell you two words they said.</p>

13 (Pages 46 to 49)

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<p style="text-align: right;">Page 58</p> <p>1 him, then he'll be all right." But how they going 2 to tell them he'll be all right and they ain't no 3 doctor? You know what I'm saying? Take him and let 4 the doctor check him out. 5 Then that's when we got pissed off. And then 6 we really, really got pissed off again, that's when 7 I really got pissed off, and when the next morning 8 he was dead, I said if they had took him to the 9 hospital, he might be living to this day. It was on 10 them the reason that I say the man ain't living to 11 this day. 12 You know, I ain't God or whatever, saying that, 13 but still they should have took that man to the 14 hospital. 15 Q You talking about the paramedics? 16 A Yes, sir. 17 Q Were you in the booking area while the 18 paramedics were checking out Mr. McDougle? 19 A No, no, no. 20 Q Do you know what treatment the paramedics 21 gave Mr. McDougle? 22 A No, I don't. 23 Q You were out in the trusty yard at that 24 time? 25 A Yeah.</p>	<p style="text-align: right;">Page 60</p> <p>1 they made that judgment now because he dead. 2 Q Did you ever go inside the booking area to 3 where his cell was at any point that night? 4 A No. 5 Q When -- you made comments earlier about 6 passing out breakfast trays. Were you helping pass 7 out breakfast trays the next morning? 8 A They put us out. Yeah, but they sent us 9 back in that morning when -- uh -- when we got 10 where -- when we got to the disposition tank, they 11 told all of us to go back out to the trusty camp. 12 Q While y'all were passing out trays in the 13 -- 14 A No, we didn't pass out the trays. 15 Q Okay. 16 A We don't pass out the trays. All we do is 17 put the trays on the cart. The jailers and all of 18 that pass out the trays. We don't never pass out no 19 trays. Pudding or whoever -- well, whoever working, 20 usually Mr. Harvey or some of them, pass out the 21 trays. All we do is load them on the cart. 22 Q Okay. 23 A You know, from the, out of the truck. 24 Q Did you ever go inside the booking area 25 while trays were being passed out that morning?</p>
<p style="text-align: right;">Page 59</p> <p>1 Q Okay. And when you said the paramedics 2 made comments about he's going to be all right, do 3 you remember anything else they said? 4 A No. You know, man, like I said, if you 5 had asked me a long time ago, I could tell you 6 word-for-word, but -- uh -- I'm vaguely at it now 7 because, like I said, I have been having so much 8 going on with me, because then, just like I say, 9 they just sent me to No Man's Land in Parchman, and 10 I'm saying I hadn't did nothing. And I didn't know 11 it was a, it was a meeting that they were sending me 12 over there to. I'm like, "What are they sending me 13 to Parchman for?" You know what I'm saying. I 14 thought I'm going to Parchman to stay, so all of 15 that was on my mind, I'm upset. But I've done had 16 so much on my mind, Man, I don't, you know, until 17 this day of this and that, I haven't thought nothing 18 about that -- uh -- what happening because I -- 19 Q Did the EMTs say that they thought he 20 would be all right? 21 A Yeah, they said when he sleep it off, in 22 the morning he'll be all right. It ain't no need to 23 taking him down to the hospital. I said how are 24 they going to be judge if they know if that man is 25 all right or not all right. And I know they hate</p>	<p style="text-align: right;">Page 61</p> <p>1 A I can't remember. No. No. No. 2 Q Did you ever go inside Mr. McDougle's cell 3 at any point while Mr. McDougle was at the jail that 4 time? 5 A When I went in Mr. McDougle's cell, they 6 had took him away. Beck Funeral Home had took him 7 away. That's when Mr. Harvey rolled up his blanket 8 that he had bled on and put it in a garbage bag and 9 told me to go throw it away. And I went and throwed 10 it on Mr. Billy's trailer. On the garbage truck. 11 Q So before they took Mr. McDougle out of 12 the jail, you had not been inside that cell that 13 night? 14 A Unh-unh. 15 Q Is that right? 16 A No, sir. No, sir. 17 Q Had you ever looked in the window of his 18 cell that night? 19 A No, sir. 20 Q Okay. 21 A Chief told me all of this. 22 Q Okay. Did you personally ever hear 23 Mr. McDougle make any comments or any conversations 24 or anything else while he was inside the holding 25 cell that night?</p>

16 (Pages 58 to 61)

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1 A No, sir.

2 **Q Did you ever see anyone beat or punch**

3 **Mr. McDougle that night?**

4 A No.

5 **Q Did you ever see anyone tase Mr. McDougle**

6 **that night?**

7 A No. I'm just going by what I heard about

8 when he tased him, he pee'd all over himself.

9 **Q Did you personally ever see anyone tase**

10 **Mr. McDougle?**

11 A No.

12 **Q Did you personally ever see Mr. McDougle**

13 **pee on himself?**

14 A No.

15 **Q Did you personally ever see Mr. McDougle**

16 **bleeding?**

17 A No, I didn't see him bleeding, but I

18 seen -- I throwed away a bloody blanket that he was

19 sleeping on.

20 **Q Okay. Now, that was after Mr. McDougle**

21 **was taken out of the jail the next morning?**

22 A Uh-huh.

23 **Q That's a yes?**

24 A Yes.

25 **Q Do you remember about what time it was**

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1 **that you went in that cell?**

2 A Uh -- no, no. I don't know. Well, all

3 this and that, you don't really know the time,

4 because like I say, it was late, because, like I

5 say, the fire department came, and -- uh -- because

6 I remember we was trying to ask Nick what was going

7 on, and he was shaking his head, you know. You know

8 Nick who work for -- well, he used to work at the

9 jailhouse, but he drives the fire truck for the fire

10 department. I can't think of Nick's last name.

11 But anyway, but anyway, we was trying to ask

12 him what was going on, and this and that, but, man,

13 it was a long time. I mean time went on, drug on,

14 because, like I said, they came in, and then the

15 coroner came, and then all of this and that. And we

16 seen them when they wheeled him out and all of this

17 and that. It was a long time. I couldn't tell you

18 what, you know, no time.

19 **Q Was it after lunch or before lunch?**

20 A Well, I can't remember, because, like I

21 said, during that time, ain't nobody ate nothing.

22 And they wasn't passing out nothing. Didn't no

23 lunch come, no dinner come, no lunch come. All our

24 stuff come from the hospital, so I ain't know -- I'm

25 going to leave that one up in the air, because I

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1 don't know what time or when it was.

2 **Q That's fine.**

3 A Because so much was happening that day.

4 **Q Okay. When you went into Mr. McDougle's**

5 **cell after he had been taken out, tell me what you**

6 **saw in his cell.**

7 A Well, I went in there by myself. Uh -- it

8 was -- uh -- I think it was me, Pudding, Harvey, and

9 O'Berry was in there. But, anyway, it was Cull -- I

10 can't remember. I'm trying to make my mind go all

11 of the way back into that room. But Harvey was in

12 there orchestrating everything. And he told me to

13 go get a bag.

14 So I went -- I goes in the nurse's office and

15 get a bag, and he rolled -- uh -- the blanket, he

16 rolled up the blanket, and I put the blanket in the

17 bag, tied it up, and carried it out there and put it

18 on Mr. Billy's trailer. And then we all talked

19 about that. "Why would he throw that away and

20 that's evidence?"

21 **Q Okay. And this blanket that you're**

22 **talking about -- uh -- can you describe what it**

23 **looked like for me?**

24 A A regular army blanket. A wool blanket.

25 You know what old army blankets look like, a gray

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1 tweed blanket?

2 **Q Okay.**

3 A Everybody, you know, give them out in the

4 jailhouse.

5 **Q And you said there --**

6 A They got some beige and brown ones. But

7 this here was -- uh -- just a regular blanket they

8 give out at the jailhouse.

9 **Q Do you know if there was blood on it?**

10 A I know it was blood on it.

11 **Q Okay. Do you know about how much blood?**

12 A No.

13 **Q You don't know how much blood it was?**

14 A No.

15 **Q Okay.**

16 A I mean anytime blood is dried up, you

17 don't know how much blood it is, but, you know, you

18 know it was blood.

19 **Q So it was dried blood?**

20 A Yeah. It wasn't fresh blood.

21 **Q Okay.**

22 A I mean, you know, but he shouldn't have

23 throwed it away. Like I was telling them then and

24 I'm telling you, you know, all of this could have

25 been avoided if they had interviewed everybody that

17 (Pages 62 to 65)

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<p style="text-align: right;">Page 102</p> <p>1 Q All right.</p> <p>2 A And then Little Chris, too.</p> <p>3 Q How many times did Mr. Cunningham,</p> <p>4 Scott Cunningham go to the building, the main</p> <p>5 building?</p> <p>6 A Several times. I can't keep times. He</p> <p>7 goes in and out periodically, you know what I mean?</p> <p>8 Q So he wouldn't stay in bed all night? He</p> <p>9 would get up and go?</p> <p>10 A Yeah, you know, sometimes we come out and</p> <p>11 we smoke cigarettes and we talk, and he go in there,</p> <p>12 you know, go back and forth in and out, you know.</p> <p>13 Q And would he come back and tell you</p> <p>14 immediately, or he told you everything after the</p> <p>15 death?</p> <p>16 A No, no, he told me immediately. See we</p> <p>17 was all, when we found out it was the death it was</p> <p>18 that morning before breakfast, everybody was up. We</p> <p>19 was all up.</p> <p>20 Q And y'all were up at 3:30 or 4:00 when</p> <p>21 people came in that morning?</p> <p>22 A Well, people came in that morning about</p> <p>23 3:38, and grilled us about passing cigarettes to the</p> <p>24 people in the back, and he didn't leave until after</p> <p>25 four o'clock. So if he said he gave the man water</p>	<p style="text-align: right;">Page 104</p> <p>1 Q (Mr. Moore) And who is "they"?</p> <p>2 A The police officers.</p> <p>3 Q Philadelphia Police Department officers?</p> <p>4 A The city police officers.</p> <p>5 Q Okay. And he looked to be in that bad a</p> <p>6 shape when he arrived?</p> <p>7 A Yes.</p> <p>8 Q Do you know why they didn't take him</p> <p>9 immediately to the hospital?</p> <p>10 A I don't know. I don't know about what</p> <p>11 happened.</p> <p>12 Q All right. And who told you that he was</p> <p>13 tased while he was in handcuffs and once inside the</p> <p>14 jail?</p> <p>15 A Chief.</p> <p>16 Q And that would be Scott Cunningham?</p> <p>17 A Yeah, I keep saying Chief, but, yeah.</p> <p>18 Q And did Scott also tell you he urinated on</p> <p>19 himself after he was tased?</p> <p>20 A Yeah.</p> <p>21 Q Did he tell you which of the officers</p> <p>22 tased him?</p> <p>23 A Eric Lowndes.</p> <p>24 Q Did he tell you where McDougle was when he</p> <p>25 was tased?</p>
<p style="text-align: right;">Page 103</p> <p>1 at four o'clock, he was lying. Because he was out</p> <p>2 there at the trusty camp fussing about he was going</p> <p>3 to take us all back to the back if these cigarettes</p> <p>4 keep on coming up, he keeps smelling cigarette</p> <p>5 smoke.</p> <p>6 (PAUSE)</p> <p>7 Q How did Mr. McDougle look when he got out</p> <p>8 of the police Cruiser at the jail, at the Neshoba</p> <p>9 County jail? How did he look?</p> <p>10 A Well, when I seen him, he looked rough.</p> <p>11 I mean, I said, "God, what's wrong with Low-Low?"</p> <p>12 You know, when they drug him out, you know, I didn't</p> <p>13 know who it was at first. Like I say, I couldn't</p> <p>14 tell who it was.</p> <p>15 Q Did he appear to need -- did he appear to</p> <p>16 need medical treatment at that point?</p> <p>17 A Yeah, he couldn't walk. You know what I'm</p> <p>18 saying? They drug him in. He couldn't even walk.</p> <p>19 Q Were you surprised he was not taken</p> <p>20 immediately to the hospital?</p> <p>21 MR. GRIFFIN: Object to the form.</p> <p>22 A Yeah, like I said, they should have took</p> <p>23 him to the hospital before they even brought him to</p> <p>24 the jail. From when they left that yard down there,</p> <p>25 they should have took him to the hospital.</p>	<p style="text-align: right;">Page 105</p> <p>1 A No, he didn't tell me that. But he did</p> <p>2 tell me that -- uh -- that -- uh -- I don't know</p> <p>3 where he tased him at, but I can't remember if they</p> <p>4 know if they said anything about it was a, where the</p> <p>5 taser thing was stuck in him or something or</p> <p>6 another. I don't know if the EMTs got it out of him</p> <p>7 or whatever, but he did say that it was a prong</p> <p>8 still up in him. I remember that.</p> <p>9 Q Who told you that throughout the night</p> <p>10 Mr. McDougle informed the jailers that his head was</p> <p>11 hurting?</p> <p>12 A Scott.</p> <p>13 Q And did you ever see the EMTs return to</p> <p>14 the jail?</p> <p>15 A No, they didn't.</p> <p>16 Q Why do you think Mr. McDougle died?</p> <p>17 MR. GRIFFIN: Object to the form.</p> <p>18 Q (Mr. Moore) You can answer.</p> <p>19 A Neglect of medical attention. I think he</p> <p>20 would still be living today if they would have took</p> <p>21 him to the doctor. That's just my say. I ain't no</p> <p>22 doctor.</p> <p>23 Q You believe the City of Philadelphia</p> <p>24 Police Department should have taken him to the</p> <p>25 hospital?</p>

27 (Pages 102 to 105)

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<p style="text-align: right;">Page 110</p> <p>1 morning after he was gone.</p> <p>2 Q Okay. And it says, you see on the second</p> <p>3 line, it says, "The entire time Michael McDougle,</p> <p>4 Sr., was at the jail immediately prior to his death,</p> <p>5 I never entered the booking area or the jail cell."</p> <p>6 Did you ever go into the booking area before he</p> <p>7 was taken out, or was it just after he was taken</p> <p>8 out?</p> <p>9 A After.</p> <p>10 Q Okay. So before he was taken out of the</p> <p>11 jail, you didn't go in the booking area, yourself?</p> <p>12 A No.</p> <p>13 Q Okay, you just went in there after he was</p> <p>14 taken out?</p> <p>15 A Yes, sir.</p> <p>16 Q All right. Is there anything else about</p> <p>17 that paragraph you wanted to clarify?</p> <p>18 A "I never entered the booking area or the</p> <p>19 jail cell where Michael, Sr., was placed or any area</p> <p>20 in the jail in which Michael, Sr. was located." I</p> <p>21 did not while he was in there, but I did after he</p> <p>22 was gone out of there.</p> <p>23 Q Okay. All right. All right, can you read</p> <p>24 paragraph five for me, please?</p> <p>25 A "On the night of November 1st and the</p>	<p style="text-align: right;">Page 112</p> <p>1 statement here is that you never saw any officer or</p> <p>2 deputy hit Mr. McDougle, strike him, punch him, kick</p> <p>3 him, or slap him?</p> <p>4 A No, I didn't.</p> <p>5 Q You didn't see anything like that?</p> <p>6 A No, I didn't.</p> <p>7 Q Okay. No other violent act toward</p> <p>8 Mr. McDougle?</p> <p>9 A Unh-unh.</p> <p>10 Q That's no?</p> <p>11 A No.</p> <p>12 Q Okay. Can you read paragraph number 8,</p> <p>13 please?</p> <p>14 A "I did not enter the cell in which</p> <p>15 Michael McDougle, Sr., was in during the time in</p> <p>16 question, so I have no knowledge if he urinated on</p> <p>17 himself before he died." True.</p> <p>18 Q Okay. All right, can you read paragraph</p> <p>19 nine of your affidavit?</p> <p>20 A "I did not see Michael, Sr., bleeding on</p> <p>21 blankets, and I did not enter into the booking area</p> <p>22 until after Michael, Sr's., body was removed."</p> <p>23 That's true. But I did see -- now, it said, I</p> <p>24 didn't see him bleeding on his blanket, but I did</p> <p>25 see the blanket.</p>
<p style="text-align: right;">Page 111</p> <p>1 morning of November 2, 2014, being the entire time</p> <p>2 Michael, Sr., was in jail immediately prior to his</p> <p>3 death, I never interacted with Michael, Sr." That's</p> <p>4 true.</p> <p>5 Q Okay. Paragraph number six, please?</p> <p>6 A "I did not see Michael Sr., being tased</p> <p>7 and did not urinate, did not see him urinate on</p> <p>8 himself at the jail on the night in question."</p> <p>9 True.</p> <p>10 Q So you didn't see Mr. McDougle, Sr., being</p> <p>11 tased, and you didn't see him urinate on himself?</p> <p>12 A No.</p> <p>13 Q Okay. All right, and paragraph 7 of your</p> <p>14 affidavit, please?</p> <p>15 A Huh?</p> <p>16 Q Could you read paragraph 7 of your</p> <p>17 affidavit?</p> <p>18 A "I never saw any officer, deputy, or</p> <p>19 jailer hit, strike, punch, kick, or slap or do any</p> <p>20 other violent act to Michael, Sr., or any</p> <p>21 mistreatment." I didn't say I seen him strike,</p> <p>22 kick, or slap. I said I seen them drag him out of</p> <p>23 the police car when they brought him in the</p> <p>24 jailhouse. That's what I said.</p> <p>25 Q Okay. Right. Did you see him -- your</p>	<p style="text-align: right;">Page 113</p> <p>1 Q Okay. You said you thought there was</p> <p>2 blood on the blanket?</p> <p>3 A Yeah.</p> <p>4 Q Okay. Dried blood?</p> <p>5 A Yeah.</p> <p>6 Q All right. Can you read paragraph number</p> <p>7 10?</p> <p>8 A Soon after he arrived at the jail, I heard</p> <p>9 Michael, Sr., say he had a headache while in his</p> <p>10 cell (the isolation observation cell) and later the</p> <p>11 EMT's arrived at the jail. Further and moments</p> <p>12 later, while I was in the hallway leading to the</p> <p>13 booking area, I heard the EMTs say Michael, Sr., was</p> <p>14 just high and was out of his mind, and that he did</p> <p>15 not need" -- that was -- now, that was after they</p> <p>16 got ready to leave, and I heard them say this, and</p> <p>17 but that wasn't when he immediately got there.</p> <p>18 That's when they was on their way back to wherever</p> <p>19 they were going.</p> <p>20 Q Talking about the paramedics?</p> <p>21 A Yes.</p> <p>22 Q Okay, so the statements that are in this</p> <p>23 paragraph where it says "The EMTs said that</p> <p>24 Michael McDougle, Sr., was quote "just high and out</p> <p>25 of his mind and that he did not need to go to the</p>

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<p style="text-align: right;">Page 114</p> <p>1 hospital."</p> <p>2 A They said that on their way out the door</p> <p>3 when they was leaving.</p> <p>4 Q Okay. Did you hear the EMT say anything</p> <p>5 while they were inside the jail checking him out?</p> <p>6 A No.</p> <p>7 Q Did you ever personally hear Mr. McDougale,</p> <p>8 Sr., complain about having headaches or anything</p> <p>9 like that?</p> <p>10 A No, I didn't. I told you that Scott told</p> <p>11 me that.</p> <p>12 Q All right. Paragraph number 11?</p> <p>13 A "The previous affidavit I signed on</p> <p>14 September 24, 2015, were not read by me because I</p> <p>15 believe the contents of the affidavit was the</p> <p>16 information that I relayed to Mr. Carlos Moore's</p> <p>17 office as I witnessed, and I was taken to the notary</p> <p>18 by Michael, Sr.'s, father, and now after I reviewed</p> <p>19 such affidavit, much of the information contained in</p> <p>20 the affidavit is not true." False.</p> <p>21 I mean the only reason -- now, I didn't read</p> <p>22 this thing about no, about what Mr. Carlos had gave</p> <p>23 me. But I did -- uh -- I signed it and didn't read</p> <p>24 it because I felt like I had already gave my</p> <p>25 statement. And but then when I signed this right</p>	<p style="text-align: right;">Page 116</p> <p>1 you by Scott Cunningham; is that correct?</p> <p>2 A Two or three questions in there that I</p> <p>3 said that Scott told me.</p> <p>4 Q Right.</p> <p>5 A Yes, that's true.</p> <p>6 Q All right. And when you discussed your</p> <p>7 affidavit with Carlos, did you tell him that a lot</p> <p>8 of this information came from Scott?</p> <p>9 A No, I didn't.</p> <p>10 Q Okay. Why didn't you tell him that you</p> <p>11 didn't see this, but Scott saw that?</p> <p>12 A I didn't think nothing about it. I mean,</p> <p>13 you know, I didn't think nothing about it. All I</p> <p>14 thought was that, you know, we was there and I was</p> <p>15 there, and it was first-hand information. It didn't</p> <p>16 even dawn on my mind about what, but I just knew</p> <p>17 exactly what he had told me and I had knowed how it</p> <p>18 happened, what I seen and what he told me, so that's</p> <p>19 what I said, and that's why I did that.</p> <p>20 Q All right. Can I see that affidavit back</p> <p>21 from you, please?</p> <p>22 MR. GRIFFIN: I'd like to get this</p> <p>23 marked as the next exhibit. That will be</p> <p>24 Exhibit Number 5.</p> <p>25 (Exhibit 5 marked for the record)</p>
<p style="text-align: right;">Page 115</p> <p>1 here, what I had told Mr. Wade was that I, he showed</p> <p>2 me the video, that I didn't see my face, my picture,</p> <p>3 on that video, and I wanted to know why.</p> <p>4 Q Okay.</p> <p>5 A You know what I'm saying? And I knew that</p> <p>6 I was supposed to have been in that video.</p> <p>7 Q All right, well, let ask you about this</p> <p>8 affidavit that Carlos got you to sign. Did you</p> <p>9 read -- this is the affidavit. Hang on a second.</p> <p>10 This is the affidavit marked as Exhibit Number 4.</p> <p>11 A Uh-huh.</p> <p>12 Q Did you read this affidavit before you</p> <p>13 signed it?</p> <p>14 A I didn't have to read it. He read it to</p> <p>15 me.</p> <p>16 Q Okay.</p> <p>17 A Paragraph by paragraph. And then he asked</p> <p>18 me, and he said, I looked over again, and he said</p> <p>19 anything in here not correct, you stop me before I</p> <p>20 go on. And I signed it. When he got through, he</p> <p>21 said, "Do you understand everything that I read to</p> <p>22 you?" And I said, "Yes, sir," and I signed it.</p> <p>23 Q All right. And you have testified today</p> <p>24 that a lot of this stuff in your affidavit that you</p> <p>25 initially signed was based on information given to</p>	<p style="text-align: right;">Page 117</p> <p>1 Q (Mr. Griffin) Back on the record. Mr.</p> <p>2 Spivey, you mentioned that there is, at some point,</p> <p>3 that Mr. O'Berry made a comment that "he don't look</p> <p>4 right." Was that the following morning when y'all</p> <p>5 were getting ready to pass out breakfast trays?</p> <p>6 A Yes, sir.</p> <p>7 Q Okay. And I think you said Mr. O'Berry</p> <p>8 didn't get there until that morning?</p> <p>9 A He didn't get there until that morning.</p> <p>10 And he said, "That guy don't look too good."</p> <p>11 Q Yeah. I hear you. Do you remember where</p> <p>12 you were when you heard him make that comment?</p> <p>13 A I was right behind -- uh -- put with the</p> <p>14 cart. You know I just had brought the cart through</p> <p>15 the door. I was like right from the door to the</p> <p>16 first cell. Right before you get to -- because the</p> <p>17 women is right here. Right before you get to --</p> <p>18 where you go into, you know, where they change out</p> <p>19 to go in, when they taking your clothes and stuff</p> <p>20 off. And it was the observation table right in the</p> <p>21 corner.</p> <p>22 Q So right by the door where you first come</p> <p>23 in?</p> <p>24 A Right by the door.</p> <p>25 Q All right.</p>

30 (Pages 114 to 117)